

coalition for asylum seekers,
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6 July 2007

The Committee Secretary
Senate Standing Committee on Legal and Constitutional Affairs
Department of the Senate
PO Box 6100
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Canberra ACT 2600
Australia

Submission to Inquiry into the Australian Citizenship Amendment (Citizenship testing) Bill 2007

Since January 2000, the Coalition for Asylum Seekers, Refugees and Detainees, known as CARAD, has provided settlement services for over 4,000 refugees. CARAD comprises volunteers, supporters and donors with widely varying backgrounds but with the same commitment to CARAD's belief that mandatory detention is wrong and that all people recognised as refugees should be given permanent protection. It is in this context that CARAD is pleased to respond to the invitation from the Senate Standing Committee on Legal and Constitutional Affairs.

According to the Minister's Explanatory Memorandum, the purpose of the amendments to the Australian Citizenship Act is "a key part of the Government's ongoing commitment to help migrants successfully integrate into the Australian community".

However, that is not a stated objective in the Act or amendments themselves, nor is there anything in the Act or amendments that could be said to facilitate that purpose directly or indirectly. The amendments simply provide for a mechanism to vet applicants for citizenship according to criteria set by the Minister of the day in his/her discretion.

There is nothing in the amendments prescribing, defining, limiting or describing the content or purpose of the citizenship test. As such it is open to abuse and political capriciousness.

The Minister says that the bill provides that a successful completion of a test will enable the Minister to be satisfied applicants understand the nature of their application, possess basic English and have adequate knowledge of Australia and responsibilities and privileges of Australian citizenship. See s21(2) and (2A).

The Minister says special arrangements will be made for people with literacy skills difficulties. But this is not provided for in the Act. Neither the proposed amendments nor the Ministers Explanatory Memorandum discloses the sorts of arrangements that the minister may consider are appropriate for those with literacy, health, psychological or other difficulties who may be at a profound and unfair disadvantage in testing. For example female refugees who come from places such as Afghanistan who have not had the opportunity to participate in education and, since arriving in Australia, have been engaged in childcare. Some refugees have been victims of torture and trauma with consequential impairments. Many of these people are or will become eligible to apply for citizenship. We remain concerned for these clients and many others in similar situations. There is no indication of the mechanism that will be required by section 21(2A).

The Minister says that s23A allows for the Minister to approve more than one test, which allows for the possibility that the Minister may consider that some people, for example those with low levels of literacy, may need different ways of meeting the criteria.

However, this is not how s23A is drafted. It does not provide that the Minister has a discretionary power to provide for more than one test, or circumstances in which he should consider any such discretion. The section specifically says “The Minister must, by written determination, approve a test”, viz, singular.

There should in fact be an obligation on the Minister to provide for such special measures in testing in listed circumstances of disadvantage, including such as that mentioned by the Minister, and also in cases of disabilities of sight, hearing or intellect, or having been a victim of torture or trauma.

There is no limit in the Act on what the Minister may include in the test. Section 23A(6) confers unlimited discretion as to the matters related to the test that the Minister can determine. Again, this is wide open to abuse.

The Minister says that s23A(6) allows the Minister to make special arrangements for applicants with special needs, and or allows the Minister to determine mechanisms for testing. Those powers should be clarified in the legislation and provisions for applicants with special needs be made obligatory.

As the Minister explains, the purpose of s23A(7) is to make it clear that the Minister's determinations as to the tests (content, form, methods etc) is not legislative in character, so they are immune from review or challenge. There is no legislative provision for a review of the tests or testing process. Nor is there any mechanism for application of review by unsuccessful applicants.

The Minister says the cost of implementation is estimated to be \$123.6 million over 5 years. This money would be better spent on providing recent NESB and unskilled migrants with education, training and employment opportunities. Such direction of funding is more likely to achieve the stated objectives of the bill.

The stated purposes of the Act cannot be achieved by the present amendments. Further, much needs to be included, clarified, limited and/or defined to ensure against abuses and unfairness.

CARAD maintains its objection to the introduction of the citizenship test for the stated reasons in its previous submission.

Rosemary Hudson Miller
CARAD Management Committee